

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SHIRLEY POLK DAVIS

v.

TEXAS VETERANS LAND BOARD

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3-09-CV-1426-M

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

On this date came on to be considered Plaintiff's Motion to Proceed *In Forma Pauperis* filed on July 31, 2009, contemporaneously with her *pro se* complaint in the above styled and numbered action, and the magistrate judge finds and recommends as follows:


On August 4, 2009, the magistrate judge issued a questionnaire which Plaintiff executed and filed on September 3, 2009. In her answers to the questionnaire Plaintiff identified the house referred to in her original declaration as being located at 1346 South Ewing Avenue, Dallas, Texas, having an appraised value of \$46,580.00 with no outstanding mortgage, and from which she derived rental income of \$300.00 per month. In answer to Question No. 5 Plaintiff stated that she paid monthly rental on her residence in the amount of \$332.00. Due to the ambiguities in her answer to the questionnaire a supplemental questionnaire was issued on September 4, 2009, which Plaintiff answered and filed on September 24, 2009. In her answers to the supplemental questionnaire Plaintiff states that she owns the property at 3422 Cedardale Road, Dallas, Texas, that it has a current appraised value of \$305,020.00, and that the outstanding mortgage on the property is \$41,000.00. The \$332.00 previously identified as her monthly rent on the property in actuality is her monthly mortgage payment. Her answers to the questionnaires establish that she owns real property valued at approximately \$350,000.00 less an outstanding mortgage on one parcel in the amount of \$41,000.00.

RECOMMENDATION:

For the foregoing reasons, it is recommended that Plaintiff's motion to proceed *in forma pauperis* be denied and that her complaint be dismissed without prejudice unless within twenty (20) days from the date of this recommendation Plaintiff pays the filing fee of \$350.00.

A copy of this recommendation will be mailed to Plaintiff.

Signed this 29th day of September, 2009.


WM. F. SANDERSON, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 10 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).